

# Ray May Continue His Bid To Prove He Wasn't Shooter

## *Prosecutors' Motion Denied in King Case*

Associated Press

JACKSON, Tenn., Aug. 29—A Tennessee appeals court ruled today that James Earl Ray can continue trying to show he did not fire the bullet that killed the Rev. Martin Luther King Jr.

Although the state Criminal Court of Appeals rejected a motion filed by prosecutors that would have stopped the effort, it did so on narrow grounds. The court agreed that two Memphis judges have overstepped their authority in issuing orders in the case.

Judge Joe Brown has been considering a second round of ballistics tests on the rifle that authorities say Ray used to kill King. Judge John Colton Jr. wanted to appoint a special investigator to subpoena witnesses and take sworn testimony about a possible murder conspiracy.

The court said Colton would be "acting without authority" in making the appointment. Brown may order tests, but he acted improperly in ordering the FBI to turn over bullets it tested from Ray's rifle in 1968, the court said.

"A judge is a fair and impartial adjudicator, not an investigator," the court said. "In this regard we find that Judge Joseph D. Brown Jr. has crossed this line. Upon review of the record as

a whole, we are disturbed by the trial judge's handling of these procedures."

Ray has been trying for more than 23 years to take back his guilty plea to killing King in Memphis in 1968. The plea has been upheld eight times by state and federal courts.

Brown ordered new tests on Ray's rifle and the death bullet in May but they were as inconclusive as similar tests by the FBI and a House committee in 1978.

Prosecutors argued that Ray, 69, has exhausted his appeals in Tennessee and that the judges had no authority to deal with Ray's claims that he was set up to take the blame for King's murder.

Dexter King, the son of the slain civil rights leader, appeared here today. King's family has supported Ray's efforts to get a trial, saying it would help clear up questions about a possible government conspiracy in the killing.

"I think the state has every obligation to pursue justice until justice prevails," King said after the hearing.

Prosecutors said the judges violated the state constitution's separation of powers provisions by taking on duties reserved for prosecutors.

Ray's lawyers say prosecutors fear what further investigation will find.